

## CASE 22



# *Illegal Drugs at School*

## Zero Tolerance Policies

### BACKGROUND

Discipline is vital to classroom learning. Inappropriate or rowdy classroom behavior disrupts learning and creates an unsafe environment for the school community. As officials develop policies and procedures to address student misconduct, they should clearly define the behaviors over which the school has jurisdiction and those that outside agencies must handle.

According to Gorton and Schneider (1991), “Although schools report a wide variety of student discipline problems, they seem to fall into four general categories: (1) misbehavior in class; (2) misbehavior outside class, but in school or on school grounds; (3) truancy; and (4) tardiness” (p. 388). Behaviors that transcend what school officials are trained to handle have become a gray area in student codes of conduct. As examples, vandalism and possession of illegal drugs are serious disciplinary infractions and are also violations of law. The school’s authority to determine guilt or innocence and administer punishment for those offenses is questionable. Administrators and faculty should limit themselves to defining behaviors that disrupt learning rather than actions that legal authorities will address.

The Gun-Free Schools Act of 1994, federal legislation directed at students who bring weapons to campus, introduced a new disciplinary concept to school authorities. States were mandated to enact legislation requiring at least a one-year expulsion for students who brought firearms to school. The law

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allowed superintendents some latitude to modify the expulsion requirements on a case-by-case basis, but the idea of zero tolerance policies was born.

Zero tolerance means that there is not an acceptable justification for a specific behavior in a given circumstance. Boards of education adopted zero tolerance policies regarding weapons in a good faith effort to improve safety in schools but have since learned that harsh, inflexible policies fail to account for a behavior's intent. In 2001, school authorities in Virginia expelled a 13-year-old boy who took a notebook that contained a knife from his friend and stored it in his locker to prevent its owner from attempting suicide. The assistant principal who discovered the weapon believed the boy was acting to protect his friend, but the district's zero tolerance weapons policy allowed no discretionary judgment. The Fourth Circuit upheld the system's policy and the child's four-month expulsion but noted the policy's harshness in its ruling (*Ratner v. Loudon Co. Pub. Schools*).

Many school boards adopted similar policies regarding students' use or possession of illegal drugs on campus but quickly discovered that inflexible policy prevented administrators and teachers from using judgment when confronting student infractions. Trained police dogs and random testing of students for drugs have evolved as alternatives to the more restrictive zero tolerance policy.

The courts have handed down numerous opinions about using dogs to detect drugs on school campuses. The central question in most of the cases relates to Fourth Amendment rights regarding searches balanced against a school district's custodial responsibility for children. The Tenth Circuit allowed the use of trained police dogs to sniff lockers but did not address the constitutional issues related to illegal searches in its 2001 ruling in Texas in *Zamora v. Pomeroy*.

The Fifth Circuit, however, ruling in *U.S. v. Place* (462 U.S. 696, 1983), noted that drug-sniffing dogs are used in airports and other conveyances to enhance public safety. The Court maintained that a doctrine of "public smell" equivalent to a "plain view" doctrine for searches has evolved and noted that school officials need only "reasonable suspicion" to conduct a search and must show that the dogs are reasonably reliable in detecting contraband to justify their actions.

In continuing efforts to control drug use in schools, some districts have devised testing programs aimed at specific subgroups of students. The U.S. Supreme Court upheld a 1995 ruling in *Vernonia School District 47J v. Acton* that permitted random testing of student athletes. The Court ruled again in 2002 in *Board of Education v. Earls* that the board's policy of testing all students participating in extracurricular activities was legal because the widespread use of drugs nationally made the policy "entirely reasonable."

School administrators should be aware that no community in America is unaffected by the presence of illegal substances or their use by students. The National Center on Addiction and Substance Abuse completed a six-year study in 2001 and reported that 60% of high school students and 30% of middle school children would return that fall to schools where drugs were used, kept, or sold. The Center's report also found that 76.4% of the students who had tried marijuana (more than 1.5 million) continued its use into the twelfth grade.

Students' use of easily obtained illegal drugs looms as a major challenge for school administrators. Zero tolerance policies, drug testing, and locker and automobile searches have become common practice as officials try to educate children about the dangers of drugs. State and federal courts will have more to say about the manner in which districts attempt to cope with this problem.

#### FACTORS TO CONSIDER

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- Case law pertaining to search and seizure on school property
- The assistant principal's role in school discipline
- Political considerations in decision making
- The effectiveness of zero tolerance policies

#### THE CASE

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"Hey! Mr. Pinchard! We're going to win Friday night, aren't we?" Jeff asked as he retrieved two books from his locker.

Roger Pinchard smiled. The kids had been excited for two weeks about the playoff football game with DeVane High, their cross-town rival. W. H. Wilson was a slight favorite for the county championship.

"I have it on good authority that DeVane doesn't have a chance," Pinchard replied. "We'll be adding another trophy to the case at the end of the game!"

Pinchard walked through the hallway, exchanging greetings with students as he moved toward his morning duty assignment in the seniors' parking lot. The fall weather was brisk, but the assistant principal enjoyed an opportunity to go outside and leave the mounds of paperwork on his desk.

He watched from the sidewalk as students drove slowly to their parking spaces. It had taken almost one year for Roger and Ms. Morales, the principal, to devise a parking scheme for seniors. The first-come, first-served approach endorsed by the former principal had resulted in numerous accidents as

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students sped though the lot to park close to the building. Frequent fights and arguments had forced Ms. Morales to address the parking problem. It hadn't been easy, but peace had been restored!

Roger had been surprised by the behavior of some of the parents. He'd received telephone calls from city council members who were looking for special favors in parking lot assignments for sons and daughters of influential constituents. Even Mayor Richards had called! Thank goodness Ms. Morales had handled that one!

Dee Mathes, a cheerleader and popular senior, drove her SUV into a parking space and turned her engine off. She and three friends got out and walked toward the building.

"Morning, ladies," Pinchard said, smiling.

"Oh, hi, Mr. Pinchard," Dee said. "We're not late yet, are we?"

"No, you have 10 minutes before homeroom," he replied, looking at his watch.

As Dee passed him, Pinchard smelled the pungent aroma of marijuana.

"Dee?" he called after her.

"Yes, sir," she giggled.

"Can I talk to you for a moment?"

She motioned for her friends to continue and returned unevenly to the assistant principal.

"Are you feeling well?" Pinchard asked, moving closer to her. The odor was distinct.

Dee stepped back. "I'm fine, just excited about the game."

Pinchard nodded as Dee retreated quickly toward the building.

After the seniors were safely inside the building, Pinchard found Ms. Morales and shared his suspicion with her.

"Do you think Dee has been using drugs this morning?" the principal asked.

"The marijuana odor was strong, but I can't say for certain," Pinchard replied.

Ms. Morales shook her head. "We can't allow these kids to think that they can come to school with drugs," she said. "I'm going to call the Sheriff's office and ask him to bring his dog. We don't know if Dee and her friends were taking drugs, but we can check the cars in the student parking lot. I'll call the superintendent to tell him what we're doing."

Pinchard returned to his office. The Sheriff's deputies and their dog had visited Wilson's campus on three occasions. Ms. Morales wanted students to know that the district's zero tolerance policy for drug possession, sale, or use would be enforced at the school.

The principal appeared in Roger's doorway 30 minutes later as he completed a textbook requisition for the English department.

“The Sheriff’s deputies and dog will be here in the next half-hour. I’ve asked the secretaries to delay any students who want to check out. You and I will meet the police in the parking lot.”

“Did you call the superintendent?” Roger asked.

“He’s attending a conference and couldn’t be reached, but I left a message for him.”

The administrators walked through the building and arrived at the parking lot to find Deputy Michaels and his dog, Alex, waiting for them.

“Good morning,” the officer said. “For the record, you’ve requested assistance from the Sheriff’s office to conduct a search of the school’s parking area with Alex. Is that correct?”

Ms. Morales nodded. “Yes, I have. Mr. Pinchard thinks he smelled the odor of marijuana on one of our students this morning.”

The deputy nodded and led Alex toward the first row of cars. The dog was calm until he reached Dee Mathes’s SUV. He barked, stood on his hind legs, and pawed at the front-seat passenger’s side window.

“I think we have something here, ma’am,” Michaels said. Do you know who drove this vehicle to school?”

“I do,” Pinchard said. “It belongs to a senior named Dee Mathes. I saw her arrive in it this morning.”

“Is she the daughter of Roger Mathes, the city attorney?”

Ms. Morales nodded her head. “Yes, she is.”

“I’m going to ask her to open her car so I can search the interior,” Michaels said. “She may refuse. If she does, I’ll detain her and call for a search warrant. Can you bring her to the office?”

“Yes, right away,” Pinchard said, moving toward the building.

Ms. Morales waited with Deputy Michaels to call for other deputies to keep the SUV under surveillance and escorted him into the building. Dee Mathes waited nervously in the principal’s office with Mr. Pinchard.

The officer asked Dee if he could search her vehicle. She agreed and accompanied him to the parking lot. Her SUV was surrounded by two police cruisers and three deputies. A group of physical education students gathered near the end of the parking lot to watch.

Deputy Michaels donned protective rubber gloves and searched the SUV’s interior carefully, beginning with the driver’s side. He found nothing until he moved to the front-seat passenger’s side and moved a food wrapper lying on the carpet. Two marijuana cigarettes rolled from beneath the seat. He retrieved them and placed them in an evidence bag.

“Are these yours, Ms. Mathes?” he asked, turning to Dee.

“No! I’ve never seen them before! They aren’t my drugs,” she sobbed. “Am I in trouble?”

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“I’m afraid so. I’m placing you under arrest for possessing an illegal substance.”

A deputy stepped forward and shackled Dee’s hands as he explained her constitutional rights to her. The physical education students clapped and cheered wildly from the end of the parking lot.

“We’ll want to talk with the students who rode to school with Ms. Mathes,” one of the deputies said. Will you call them to the office?”

“Certainly,” Ms. Morales said. “We’ll meet you inside in a moment.”

The administrators watched as Dee was placed in a patrol car and driven off campus.

“What happens now?” Pinchard asked.

Ms. Morales walked slowly toward the building. “Several things. You can bet Dee’s father will be here within the hour to protect his little girl, and we may as well start filling out the forms to recommend her expulsion from school for the rest of the year.”

“Shouldn’t we wait until the Sheriff tells us whether or not those were marijuana cigarettes?” Pinchard asked.

“We both know that they are,” Ms. Morales replied. “We’re going to have to follow the board’s policy, but it’s going to be tense around here for a few days.”

Pinchard returned to his computer and began to write the expulsion report, but he was interrupted by his secretary.

“Mr. Pinchard, a reporter from the *Gazette* is on the phone. He has questions about the drug raid.”

The assistant principal reached for his telephone, knowing the conversation wasn’t going to be pleasant.

**Questions**

1. Did Ms. Morales and Mr. Pinchard have sufficient cause to ask police to search Dee Mathes’s vehicle?
2. What should Mr. Pinchard say to the newspaper reporter?
3. Should school officials contact Dee’s parents, or wait until the police do so?
4. Does your school district enforce zero tolerance policies? Are you aware of occasions on which a zero tolerance policy was inappropriate?
5. Mr. Pinchard’s duties at W. H. Wilson High School are typical assignments for an assistant principal. What suggestions would you offer to prepare assistant principals more effectively for the principal’s job?

**Activities**

1. Role-play the conference that will occur between Dee's parents and school officials.
2. What kinds of influence do you expect Dee's parents to use to resolve this case?
3. Interview a principal or assistant principal and discuss the most difficult disciplinary case they have encountered. What did they learn that might be valuable to you?
4. Interview a principal to learn what mentoring activities are used to prepare an assistant principal to meet the challenges of school leadership. How are those experiences assessed?

**ISLLC Standards**

**STANDARD 3**—A school administrator is an educational leader who promotes the success of all students by ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment.

**Knowledge**

*The administrator has knowledge and understanding of:*

- Operational procedures at the school and district level
- Principles and issues relating to school safety and security

**Dispositions**

*The administrator believes in, values, and is committed to:*

- Making management decisions to enhance learning and teaching
- Trusting people and their judgments

**Performances**

*The administrator facilitates processes and engages in activities ensuring that:*

- Operational plans and procedures to achieve the vision and goals of the school are in place
- Potential problems and opportunities are identified

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**STANDARD 4**—A school administrator is an educational leader who promotes the success of all students by collaborating with families and community members,

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responding to diverse community interests and needs, and mobilizing community resources.

***Knowledge***

*The administrator has knowledge and understanding of:*

- Emerging issues and trends that potentially impact the school community
- Community resources

***Dispositions***

*The administrator believes in, values, and is committed to:*

- Resources of the family and community needing to be brought to bear on the education of students
- An informed public

***Performances***

*The administrator facilitates processes and engages in activities ensuring that:*

- High visibility, active involvement, and communication with the larger community is a priority
- Available community resources are secured to help the school solve problems and achieve goals

**REFERENCES**

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Gorton, R., & Schneider, G. (1991). *School-based Leadership: Challenges and opportunities* (3rd ed.). New York: McGraw-Hill.  
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*Vernonia School District 47J v. Acton*, 515 U.S. 646 (1995).  
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